

HBG

**United States District Court
Middle District of Pennsylvania (Harrisburg)
CIVIL DOCKET FOR CASE #: 1:11-cv-00901-JEJ
Internal Use Only**

National Fule Marketing Company, LLC v. National Fuel
Gas Company

Assigned to: Honorable John E. Jones, III

Cause: 28:2201 Declaratory Judgement (Insurance)

Date Filed: 05/11/2011

Jury Demand: None

Nature of Suit: 840 Trademark

Jurisdiction: Federal Question

Plaintiff

**National Fule Marketing Company,
LLC**

represented by

Bridget E. Montgomery

Eckert Seamans Cherin & Mellott, LLC

Trademark #
3,019,335

213 Market St
8th Floor
Harrisburg, PA 17101
717-237-6054
Fax: 717-237-6019

Email:

bmontgomery@eckertseamans.com

ATTORNEY TO BE NOTICED

V.

Defendant

National Fuel Gas Company

Date Filed	#	Docket Text
05/11/2011	<u>1</u>	COMPLAINT for Declaratory Relief against National Fuel Gas Company (Filing fee \$350, Receipt Number 111 009690), filed by National Fule Marketing Company, LLC. (Attachments: # <u>1</u> Civil Cover Sheet)(aaa) (Entered: 05/12/2011)
05/12/2011		Summons Issued as to National Fuel Gas Company and provided to Attorney for service on Defendant. (aaa) (Entered: 05/12/2011)
05/12/2011		DOCKET ANNOTATION: Case reasassigned to Judge Jones. Original assignment was a clerical error. (pw,) (Entered: 05/12/2011)

*Timothy
Lewand*

FILED
HARRISBURG, PA
MAY 11 2011
MARY E. DIANDREA, CLERK
Per *[Signature]*

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

NATIONAL FUEL MARKETING
COMPANY, LLC

Plaintiff,

vs.

NATIONAL FUEL GAS COMPANY:

Defendant.

Civil Action No. 1:11-cv-0901

COMPLAINT FOR DECLARATORY RELIEF

COMES NOW Plaintiff, National Fuel Marketing Company, LLC
("National Fuel Marketing"), by its undersigned attorneys, as and for its claim for
declaratory relief; and, in support thereof, states and alleges as follows:

I. INTRODUCTION

1. This is a Complaint for Declaratory Judgment, pursuant to 28
U.S.C. §§ 2201 and 2202, respectively, in which National Fuel Marketing seeks a
determination (1) that its use of its NATIONAL FUEL MARKETING name and

mark, in connection with its exclusively non-residential sale and delivery of natural gas supplies to utility companies, municipalities, local distribution companies (“LDCs”), independent power producers (“IPPs”), industrial customers and producers does not infringe on any trademark rights of Defendant, National Fuel Gas Company (“NFG”), in the trademark NATIONAL FUEL, registered for utility services, namely the transmission and distribution of natural gas to residential homes, under the Lanham Act of the United States, 15 U.S.C. § 1051 *et seq.*, as Registration No. 3,019,335; and, further, (2) that equity bars any threatened infringement claim against National Fuel Marketing by NFG.

II. PARTIES

2. NFG is a corporation organized and existing under the laws of New Jersey, with its principal place of business at 6363 Main Street, Williamsville, NY 14221.

3. NFG claims that it conducts business throughout Pennsylvania; and it conducts business in the Middle District of Pennsylvania.

4. NFG has asserted its right to exclusive use of NATIONAL FUEL as a mark and as a component of a mark on its own behalf and that of its subsidiaries/licensees who do business and own property in the Middle District of Pennsylvania.

5. NFG is a holding company, and its subsidiary rendering the services identified in the '335 registration renders such services under the NATIONAL FUEL name and mark in this Commonwealth and in this District, as a related company of NFG, with its use of the name and mark necessarily being subject to the control of NFG as licensor.

6. NFG has registered in Pennsylvania for purposes of lobbying the Pennsylvania General Assembly, and has created and registered a Pennsylvania Political Action Committee.

7. National Fuel Marketing is a limited liability company organized and existing under the laws of Colorado, and having an address of 6300 S. Syracuse Way, Suite 750, Centennial, Colorado 80111. National Fuel Marketing is registered to do business in Pennsylvania with a registered agent in the Middle District of Pennsylvania. National Fuel Marketing conducts business and has existing customers in forty (40) states, including Pennsylvania and actively markets in an additional eight (8) states, which business NFG is wrongfully attempting to interfere with.

III. JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this action, pursuant to 28 U.S.C. § 1331, because there is a federal question with regard to

NFG's threatened claims of trademark infringement, under the Lanham Act of the United States, 15 U.S.C. § 1051 *et seq.*

9. Jurisdiction is also premised on 28 U.S.C. § 1332(a).

10. Venue is proper in the Middle District of Pennsylvania pursuant to 28 U.S.C. §§ 1391(b)(1) and (2) and 1391(c).

IV. FACTUAL BACKGROUND

11. On April 4, 2011, NFG sent to the Chief Financial Officer of National Fuel Marketing a letter that identified NFG as the holder of an incontestable federal registration for NATIONAL FUEL, which letter states: "Given the closely-related nature of the goods and services offered by your companies and ours, we must and do insist that your companies not use the mark NATIONAL FUEL to engage in energy-related business activities or any other business enterprise that results in a likelihood of consumer confusion in areas where National Fuel operates. . . . If your companies were to proceed in violation of the above terms, we would have to pursue legal action for trademark infringement." NFG's cease and desist letter threatening legal action against National Fuel Marketing is attached hereto as Exhibit A.

12. National Fuel Marketing has been in business since 1995; and, during the last nearly sixteen (16) years, has developed a commercially significant, successful and highly regarded business, selling and delivering natural gas to non-

retail, non-residential customers in forty (40) states, including Pennsylvania, and three Canadian provinces.

13. National Fuel Marketing was formed in 1995 by National Fuel Corporation, a Colorado corporation, which has done business in the Rocky Mountain States since 1971.

14. National Fuel Marketing and National Fuel Corporation were, until December 31, 2010, related companies, by virtue of National Fuel Corporation establishing National Fuel Marketing in 1995, and its former maintenance of a 61% ownership interest, which interest in National Fuel Marketing was redeemed on December 31, 2010.

15. National Fuel Marketing has, since 1995, been engaged in the sale and delivery of natural gas to utility companies, municipalities, local distribution companies ("LDC's"), independent power producers (IPP's) and industrial customers.

16. Prior to July 19, 2004, when NFG filed its application for registration of NATIONAL FUEL as a mark for utility services, namely the transmission and distribution of natural gas to residential homes, National Fuel Marketing had exclusively non-residential customers in 25 states, including: Connecticut, New York, Ohio and Virginia. National Fuel Marketing was, prior to

that time, actively marketing its services to prospective non-residential customers in Pennsylvania, New Jersey and Idaho.

17. Subsequent to the July 19, 2004 filing date of NFG's application, National Fuel Marketing has rendered its services to exclusively non-residential customers in forty (40) states, adding customers in Pennsylvania, New Jersey, Maryland and Massachusetts, among other states.

18. National Fuel Marketing is unaware of any confusion of any member of the relevant public or trade having any commercial impact, in spite of nearly sixteen (16) years of concurrent use of its mark and name and NFG's mark.

19. FUEL is a generic term and NATIONAL is a geographically descriptive term; and there are numerous third parties who use both "National" and "Fuel" as components of names and marks in the fuel industry, including, but not limited to, National Fuel & Energy, Inc., National Fuel Company and National Fuel Saver.

20. The customers of National Fuel Marketing are commercial enterprises exercising sophisticated judgment and significant care in the selection of a natural gas provider.

21. The nature of the decision to purchase services from National Fuel Marketing is such as entails considerable care and sophistication, and results from direct negotiations between National Fuel Marketing and its customers.

22. It typically takes at least twelve months for National Fuel Marketing to secure a contract with a new customer, granted the nature and amount of diligence conducted.

23. The contracts between National Fuel Marketing and its customers involve significant sums of money because of the large volume of natural gas involved in each contract.

24. National Fuel Marketing is not a utility and does not provide utility services.

25. The NFG registration for the NATIONAL FUEL mark is directed and limited to utility services, namely the transmission and distribution of natural gas to residential homes.

26. NFG is an LDC, local distribution company, marketing to residential consumers.

27. National Fuel Marketing does not deal with residential end users of natural gas.

**AS AND FOR A FIRST CAUSE OF ACTION
AGAINST NFG (Declaratory Judgment of Non-Infringement)**

28. Plaintiff incorporates by reference, as if fully set forth herein, the allegations contained within Paragraphs 1 through 27 of this Complaint.

29. Plaintiff respectfully requests that this Court declare that National Fuel Marketing's exclusively non-residential sales and delivery of natural

gas under the mark and name NATIONAL FUEL MARKETING (1) do not constitute an infringement of any rights NFG may have in the NATIONAL FUEL trademark, under the Lanham Act and (2) are not likely to confuse members of the relevant public and trade as to sponsorship or affiliation or source.

30. A ripe and justiciable controversy exists between National Fuel Marketing and NFG regarding whether or not National Fuel Marketing is infringing on any NFG NATIONAL FUEL trademark rights by National Fuel Marketing's exclusively non-residential sales and delivery of natural gas to utility companies, municipalities, local distribution companies ("LDC's"), independent power producers ("IPP's") and industrial customers, and whether NFG is entitled to any of the relief it has threatened and demanded.

31. National Fuel Marketing has no adequate remedy at law.

32. National Fuel Marketing is entitled to a declaration of this Court that (1) National Fuel Marketing's exclusively non-residential sales and delivery of natural gas under the NATIONAL FUEL MARKETING name and mark do not constitute any infringement of the NATIONAL FUEL trademark, under the Lanham Act, and (2) are not likely to cause confusion as to sponsorship or affiliation or source.

**AS AND FOR A SECOND CAUSE OF ACTION
AGAINST NFG (Declaratory Judgment of Unenforceability of
Rights Based On Laches, Acquiescence and Estoppel)**

33. Plaintiff incorporates by reference, as if fully set forth herein, the allegations contained in Paragraphs 1 through 32.

34. NFG and National Fuel Marketing have co-existed, without incident and without any legally cognizable confusion of any members of the relevant trade or public, for nearly sixteen (16) years.

35. NFG and National Fuel Marketing have attended the same energy industry events, since prior to NFG's making application for its trademark registration, including GAS MART 2004 in Denver in May, 2004 where National Fuel Marketing advertised in the trade show program, and NFG made no objection to National Fuel Marketing's use of its mark and name.

36. NFG communicated with National Fuel Marketing at least five years ago, recognizing that both companies were doing business under their respective names and not making any threat or demand.

37. NFG and National Fuel Marketing have, since 2006, been members of NESA ("National Energy Service Association"), and NFG made no objection to National Fuel Marketing's use of its mark and name.

38. National Fuel Marketing has contacted NFG about buying transport, that is doing business on NFG's pipeline in the normal course of

business, and NFG made no objection to National Fuel Marketing's use of its mark and name.

39. NFG has known or had reason to know of National Fuel Marketing's activities in its non-residential market, since at least as early as 2004.

40. Over the last nearly sixteen (16) years, National Fuel Marketing has continued to expand the geographic reach of its services.

41. It would be inequitable now for NFG to claim, based on a federal registration for NATIONAL GAS as a mark for services directed exclusively to residential customers, that it is now in any way being harmed by National Fuel Marketing's commercial activities in the exclusively non-residential market.

WHEREFORE, Plaintiff National Fuel Marketing Company, LLC prays for relief as follows:

A. for a declaration that (1) National Fuel Marketing Company, LLC has not engaged in infringement or acts of unfair competition by virtue of its exclusively non-residential sale and delivery of natural gas to utility companies, municipalities, local distribution companies ("LDC's"), independent power producers ("IPP's") and industrial customers, under the NATIONAL FUEL MARKETING name and mark; that (2) such exclusively non-residential sales by National Fuel Marketing under the NATIONAL FUEL MARKETING name and

mark are not likely to confuse members of the relevant public and trade as to sponsorship or affiliation or source and that (3) National Fuel Gas Company is not entitled to any relief by virtue of such sales and delivery; and

B. for a declaration that any threatened claim against National Fuel Marketing Company, LLC for its conduct of the same business it has engaged in under the same mark and name for nearly sixteen (16) years is barred by the equitable doctrines of laches, acquiescence and estoppel; and

C. for such other and further relief as the Court should deem just and equitable.

Respectfully submitted,

ECKERT SEAMANS CHERIN &
MELLOTT, LLC

By: /s/Bridget E. Montgomery

Bridget E. Montgomery, Esq.

PA I.D. # 56105

Kevin M. Skjoldal, Esq.

PA I.D. # 200841

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P: 215-851-8400

F: 215-851-8383

National Fuel

Ronald J. Tanski
President and Chief Operating Officer

April 4, 2011

Ms. Diane Thompson
President
National Fuel Corporation
8400 E. Prentice Avenue – Suite 1100
Greenwood Village, CO 80111

Ms. Brenda Mayland
Treasurer and CFO
National Fuel Marketing Company, LLC
6300 South Syracuse Way - Suite 750
Centennial, Colorado 80111

Re: United States Service Mark Registration No. 3,019,335:
NATIONAL FUEL

Dear Ms. Thompson and Ms. Mayland:

The purpose of this letter is to prevent conflicts between our companies over the use of the mark NATIONAL FUEL. We submit that it would be in the interest of all of our companies to avoid trademark infringement.

National Fuel Gas Company ("National Fuel") is the owner of U.S. Service Mark Registration No. 3,019,335 for the mark NATIONAL FUEL, effective November 27, 2005, which became incontestable on December 20, 2010. National Fuel is a publicly-traded company incorporated in 1902 and currently headquartered in Williamsville, New York. National Fuel's common stock is listed on the New York Stock Exchange and traded under the symbol "NFG," with a current market capitalization of about \$5.8 billion. Our annual report is enclosed for your review.

National Fuel is a diversified energy company; our subsidiaries operate in many areas of the energy industry including oil and natural gas exploration and production, natural gas gathering and processing, natural gas transportation and storage, natural gas utility and energy marketing. We operate extensively in New York and Pennsylvania, serving customers located throughout the East.

April 4, 2011
Page Two

Given the closely-related nature of the goods and services offered by your companies and ours, we must and do insist that your companies not use the mark NATIONAL FUEL to engage in energy-related business activities or any other business enterprise that results in a likelihood of consumer confusion, in areas where National Fuel operates. Your use in those areas of marks such as "NFM" or "NFM Marketing" that do not include NATIONAL FUEL would not infringe our federally-registered mark, and would raise no objection from us. If your companies were to proceed in violation of the above terms, we would have to pursue legal action for trademark infringement.

We wish to have an amicable relationship with your companies. We believe that all of our companies can operate profitably without any infringement. However, National Fuel fully reserves all of its rights with respect to this matter. Please contact me if you wish to discuss this matter.

Very truly yours,

NATIONAL FUEL GAS COMPANY

By: 

Ronald J. Tanski
President and
Chief Operating Officer

Enclosure

cc: Paula M. Ciprich, General Counsel and Secretary

Court Name: District Court
Division: 1
Receipt Number: 111009690
Cashier ID: pwarner
Transaction Date: 05/11/2011
Payer Name: ECKERT SEAMANS

CIVIL FILING FEE
For: ECKERT SEAMANS
Case/Party: D-PAM-3-11-CV-000901-001
Amount: \$350.00

CHECK
Check/Money Order Num: 417672
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

Only when bank clears the check or
verifies credit of funds is the fee
or debt officially paid or
discharged. A fee of \$45.00 will be
charged for returned checks.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

National Fuel Marketing Company, LLC

DEFENDANTS

National Fuel Gas Company

(b) County of Residence of First Listed Plaintiff Arapahoe County, CO
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Erie County, NY
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)
Bridget E. Montgomery, Eckert Seamans Cherin & Mellott, LLC
213 Market Street, Harrisburg, PA 17101, 717-237-6054

Attorneys (If Known)
Unknown

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

- | | | | | | |
|--|--|--|--|---|--|
| <input type="checkbox"/> 110 Insurance
<input type="checkbox"/> 120 Marine
<input type="checkbox"/> 130 Miller Act
<input type="checkbox"/> 140 Negotiable Instrument
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment
<input type="checkbox"/> 151 Medicare Act
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits
<input type="checkbox"/> 160 Stockholders' Suits
<input type="checkbox"/> 190 Other Contract
<input type="checkbox"/> 195 Contract Product Liability
<input type="checkbox"/> 196 Franchise | PERSONAL INJURY
<input type="checkbox"/> 310 Airplane
<input type="checkbox"/> 315 Airplane Product Liability
<input type="checkbox"/> 320 Assault, Libel & Slander
<input type="checkbox"/> 330 Federal Employers' Liability
<input type="checkbox"/> 340 Marine
<input type="checkbox"/> 345 Marine Product Liability
<input type="checkbox"/> 350 Motor Vehicle
<input type="checkbox"/> 355 Motor Vehicle Product Liability
<input type="checkbox"/> 360 Other Personal Injury | PERSONAL INJURY
<input type="checkbox"/> 362 Personal Injury - Med. Malpractice
<input type="checkbox"/> 365 Personal Injury - Product Liability
<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability
PERSONAL PROPERTY
<input type="checkbox"/> 370 Other Fraud
<input type="checkbox"/> 371 Truth in Lending
<input type="checkbox"/> 380 Other Personal Property Damage
<input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture
<input type="checkbox"/> 620 Other Food & Drug
<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881
<input type="checkbox"/> 630 Liquor Laws
<input type="checkbox"/> 640 R.R. & Truck
<input type="checkbox"/> 650 Airline Regs.
<input type="checkbox"/> 660 Occupational Safety/Health
<input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158
<input type="checkbox"/> 423 Withdrawal 28 USC 157
PROPERTY RIGHTS
<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 830 Patent
<input checked="" type="checkbox"/> 840 Trademark | <input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY
<input type="checkbox"/> 210 Land Condemnation
<input type="checkbox"/> 220 Foreclosure
<input type="checkbox"/> 230 Rent Lease & Ejectment
<input type="checkbox"/> 240 Torts to Land
<input type="checkbox"/> 245 Tort Product Liability
<input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS
<input type="checkbox"/> 441 Voting
<input type="checkbox"/> 442 Employment
<input type="checkbox"/> 443 Housing/Accommodations
<input type="checkbox"/> 444 Welfare
<input type="checkbox"/> 445 Amer. w/Disabilities - Employment
<input type="checkbox"/> 446 Amer. w/Disabilities - Other
<input type="checkbox"/> 440 Other Civil Rights | PRISONER PETITIONS
<input type="checkbox"/> 510 Motions to Vacate Sentence
Habeas Corpus:
<input type="checkbox"/> 530 General
<input type="checkbox"/> 535 Death Penalty
<input type="checkbox"/> 540 Mandamus & Other
<input type="checkbox"/> 550 Civil Rights
<input type="checkbox"/> 555 Prison Condition | LABOR
<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | IMMIGRATION
<input type="checkbox"/> 462 Naturalization Application
<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee
<input type="checkbox"/> 465 Other Immigration Actions | FEDERAL TAX SUITS
<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 |

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Sections 2201 and 2202

Brief description of cause:

Declaratory Judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

5-11-11

SIGNATURE OF ATTORNEY OF RECORD

K. S. S. S.

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**OFFICE OF THE CLERK
UNITED STATES DISTRICT COURT
for the
MIDDLE DISTRICT OF PENNSYLVANIA**



MARY E. D'ANDREA
Clerk of Court

*U.S. Courthouse
228 Walnut Street, Rm. 1060
P.O. Box 983
Harrisburg, PA 17108-0983*

*(717) 221-3920
FAX (717) 221-3959*

May 20, 2011

Commissioner of Patents
and Trademarks
P.O. Box 1450
Alexandria, Virginia 22313-1450

Re: 1:11-CV-0901
National Fuel Marketing Company, LLC v. National Fuel Gas Company

Dear Commissioner:

In compliance with 35 U.S.C. Sec. 290 and/or 15 U.S.C. Sec. 1116 enclosed is a copy of the docket entries and complaint which was filed in the United States District Court for the Middle District of Pennsylvania.

Sincerely yours,

Mary E. D'Andrea
Clerk of Court

By: s/aaa
Deputy Clerk